

REPRESENTATIVE FOR PETITIONER:

David L. Pippen, Attorney

REPRESENTATIVES FOR RESPONDENT:

Steve Carter, Attorney General of Indiana

Joel Schiff, Deputy Attorney General

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

WATERFURNACE INTL., INC.,	)	Petition No.:	02-059-98-1-3-50100R
)		
Petitioner,	)	County:	Allen
)		
v.	)	Township:	Pleasant
)		
DEPARTMENT OF LOCAL	)	Parcel Nos.:	2500050043
GOVERNMENT FINANCE,)		
)		
Respondent.	)	Assessment Year:	1998
)		

On Remand from the Indiana Tax Court
Cause No. 49T10-0005-TA-71

REFERAL TO PLEASANT TOWNSHIP ASSESSOR (ALLEN COUNTY)

The Board having reviewed the decision of the Tax Court in the above matter dated December 23, 2003 (attached and incorporated by reference), and pursuant to Ind. Code § 6-1.1-15-8, refers this matter to the Pleasant Township Assessor (Allen County) to make another assessment consistent with the Tax Court decision, for the reasons contained herein.

Facts and Procedural History

1. Waterfurnace International, Inc. (Waterfurnace) owns land and improvements in Fort Wayne, Indiana. The improvement at issue has a 100,378 square foot section of area used for warehousing. The local assessing official (Pleasant Township Assessor, Allen County) assessed that section using the General Commercial Industrial (GCI) schedule.
2. Waterfurnace challenged its assessment by filing a Form 130 Petition for Review of Assessment with the Allen County Board of Review (BOR). Waterfurnace argued that its improvement should have been assessed using the General Commercial Kit (GCK) schedule rather than the GCI schedule. The BOR denied its claim.
3. Waterfurnace appealed the BOR's decision to the Board. The Board also denied Waterfurnace's claim. On May 15, 2000, Waterfurnace initiated an original tax appeal. The Tax Court heard oral arguments on April 10, 2001. The sole issue considered by the Tax Court was whether the improvements should have been assessed using the GCI or GCK schedule.

Discussion of Remanded Issue

4. The Board determined in its final determination that the improvement did not qualify for the GCK pricing. Specifically, the Board found that the improvement had a 3-foot high wall on its northwest corner (to retain grade) and a rubber roof system that were not listed in GCK schedule. However, the Tax Court held the Board failed to support its final determination with substantial evidence, it did not rebut Waterfurnace's evidence indicating that its improvement qualified for assessment under the GCK schedule.
5. The Tax Court held that Waterfurnace established that its improvement should have been assessed under the GCK schedule by comparing the features of its improvement with those listed in the regulations. The Tax Court remanded the case to the Board with an

order to instruct the local assessing officials to assess Waterfurnace's improvement under the GCK schedule.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the Pleasant Township Assessor (Allen County) and instructs the Assessor to make another assessment consistent with the Tax Court decision, this ___ day of _____, 2004.

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED CASE -

You may petition for judicial review of this final determination of corrected assessment pursuant to the provisions of Indiana Code § 6-1.1-15-9. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.